

EXHIBIT 3

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 STAR AUTO SALES OF : Civil Action No.:
4 BAYSIDE, INC. (d/b/a : 1:18-cv-05775-ERK-CLP
5 STAR TOYOTA OF :
6 BAYSIDE), STAR AUTO :
7 SALES OF QUEENS, :
8 LLC (d/b/a STAR :
9 SUBARU), STAR HYUNDAI :
10 LLC (d/b/a STAR :
11 HYUNDAI), STAR NISSAN, :
12 INC. (d/b/a STAR :
13 NISSAN), METRO :
14 CHRYSLER PLYMOUTH :
15 INC. (d/b/a STAR :
16 CHRYSLER JEEP DODGE), :
17 STAR AUTO SALES OF :
18 QUEENS COUNTY LLC :
19 (d/b/a STAR FIAT) and :
20 STAR AUTO SALES OF :
21 QUEENS VILLAGE LLC :
22 (d/b/a STAR :
23 MITSUBISHI), :
24 :
25 Plaintiffs, :
vs. :
VOYNOW, BAYARD, WHYTE :
AND COMPANY, LLP, HUGH :
WHYTE, RANDALL FRANZEN :
AND ROBERT SEIBEL, :
Defendants. :

FRIDAY, SEPTEMBER 23, 2022

(Caption continued on page 2.)

Job No. CS5366866

1 UNITED STATES DISTRICT COURT
2 EASTER DISTRICT OF NEW YORK

3 - - -
4

5 FRIDAY, SEPTEMBER 23, 2022
6

7 - - -
8

9 Oral Deposition of JOHN KOUFAKIS, taken at
10 Marshall Dennehey, 2000 Market Street, Suite 2300,
11 Philadelphia, Pennsylvania, commencing at 9:24 a.m.,
12 before Lauren Sweeney, a Court Reporter and Notary
13 Public.

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25

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17 Representing the Defendants

18 - - -

19 ALSO PRESENT:

20 RANDALL FRANZEN

21 ROBERT SEIBEL

22 JEREMY KOUFAKIS

23 - - -

I N D E X

- - -

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By MS. FITZGERALD.	7

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(None)

REQUEST FOR PRODUCTION OF DOCUMENTS

Page Line Description

21 8 Original agreement

STIPULATIONS

Page Line

(None)

QUESTIONS MARKED

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(None)

JOHN KOUFAKIS

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1

- - -

2

JOHN KOUFAKIS, after having

3

been first duly sworn, was examined

4

and testified as follows:

5

- - -

6

BY MS. FITZGERALD:

7

Q. Good morning, Mr. Koufakis. My name's Maureen

8

Fitzgerald, and I represent the Defendants in the lawsuit

9

that's been filed by Star Entities, including your

10

company, Star Nissan.

11

Before we begin today I'm going to go over

12

some instructions, which you may have already not

13

reviewed with your attorney.

14

But you're under oath today. Do you

15

understand that the oath you just took is the same oath

16

as if you were in front of a judge and jury?

17

A. I do.

18

Q. Okay. We need to get your testimony accurately,

19

so please allow me to finish my question before you

20

answer so that we're not speaking at the same time.

21

Fair?

22

A. Understood.

23

Q. If you don't understand my question, please let

24

me know and I'll rephrase it or repeat it, but if you do

25

answer, I'm going to assume that you've understood the

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1 employment outside of the family business?

2 A. That's correct. I started with my father. It
3 was in the 1960s, him and I owned.

4 Q. And how old are you today?

5 A. Seventy years.

6 Q. Now, you are the sole owner of Star Nissan, one
7 of the Plaintiffs, correct?

8 A. Yeah.

9 Q. And that was formed in 1991?

10 A. Yes.

11 Q. And you are the dealer principal for Star
12 Nissan?

13 A. I am.

14 Q. And in your role as dealer principal you have
15 signed agreements with --

16 A. Nissan Corp.

17 Q. -- Nissan Corporation?

18 A. I have.

19 Q. Okay. When is the last agreement that you've
20 signed?

21 A. Probably in 1991. My dealer agreement is
22 perpetual, which is rare these days. There's very few of
23 us left.

24 Q. So there have been no written documents that
25 you've signed with Nissan Corporation since 1991 in your

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JOHN KOUFAKIS

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1 me try it again, right.

2 Have you ever seen any documents, are you
3 aware of any documents that support your contention that
4 Voynow was reviewing on a quarterly basis the financial
5 statements that were internally prepared by your company
6 and provided to Nissan Corporation?

7 MR. FELSEN: Objection. Asked and
8 answered.

9 BY MS. FITZGERALD:

10 Q. The answer is?

11 A. No.

12 Q. Thank you.

13 A. I would get my information from Michael, my
14 brother, and -- I'm sorry -- and the office manager who
15 at the time was Vivian.

16 Q. Okay. And the monthly financial statements that
17 Star provided to Nissan Corporation were what? What were
18 they?

19 A. Statements on the condition of the dealership.

20 Q. Was it a sheet, an income statement? Do you
21 know what the statement was called?

22 A. There is a balance sheet.

23 Q. Okay. So you believe a balance sheet was
24 provided monthly. And what else was provided monthly?

25 A. Well, it's really a detailed condition of the

JOHN KOUFAKIS

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1 dealership.

2 Q. Are you aware -- do you know what the title of
3 the statement was called? Because different financial
4 statements have different names.

5 A. It's just called a financial statement, a
6 financial statement.

7 Q. And as part of your role as the dealer
8 principal, did you review these statements before they
9 were sent off to Nissan Corporation?

10 A. Uh-hum.

11 Q. And you did that each month?

12 A. Yes.

13 Q. And you reviewed them to ensure that they were
14 complete and accurate to the best of your knowledge?

15 A. Yeah.

16 Q. Okay.

17 A. I did have help from the office manager and my
18 brother who are a little bit more astute in numbers and
19 accounting. My primary duties were in new and used car
20 sales. Michael's was accounting, computers. So he has
21 more detailed information than I do. I relied on him and
22 my office manager.

23 Q. You mentioned that you believe that Voynow was
24 there quarterly.

25 Was that your testimony?

JOHN KOUFAKIS

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1 A. Yes.

2 Q. And you're partial owner of Chrysler and
3 Hyundai, correct?

4 A. Yes.

5 Q. Okay. How much of your time do you devote to
6 each of those companies?

7 A. Well, basically, I go where -- most of my time
8 is at Nissan, but if I'm needed elsewhere we do have many
9 locations. I make the rounds, service, parts, Hyundai,
10 Subaru, Toyota, Chrysler. I'm an all-around man.

11 Q. All right. So it's a family business. So I
12 understand from that answer that even though you did not
13 have ownership interest in the other dealerships you
14 would also work or provide services or devote your time
15 to those as well when needed?

16 A. Yes, yes.

17 Q. All right. Can you give me an estimate, though,
18 like in a typical week -- and I'm saying, you know, let's
19 say around 2015, 2017 time frame -- how much of your time
20 were you devoting to Nissan? Would it be more than 50
21 percent?

22 A. Yes.

23 Q. More than 75 percent?

24 A. I would say two-thirds Nissan and one-third
25 every other dealership.

JOHN KOUFAKIS

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1 Q. Okay. And Vivian Karouzakis was the controller
2 for Nissan, correct?

3 A. I would call her office manager.

4 Q. Okay. But she was the most senior level
5 employee of Star Nissan in terms of accounting matters?

6 A. Yes.

7 Q. Okay. Now, as the owner and dealer principal of
8 Nissan, you are responsible for the overall operations of
9 Star Nissan?

10 A. I am.

11 Q. And you are responsible for the supervision of
12 employees that report to you?

13 A. I am.

14 Q. And Vivian was one such employee, correct?

15 A. Yes.

16 Q. And you are responsible for the implementation
17 of internal controls throughout the dealership?

18 A. Yes.

19 Q. And one of your responsibilities as the owner
20 and dealer principal is to ensure that there are
21 procedures in place to prevent theft and fraud, correct?

22 A. Yes.

23 Q. And one of your responsibilities as the owner
24 and dealer principal is to ensure that the company was
25 properly insured to present itself against theft or

JOHN KOUFAKIS

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1 fraud?

2 A. Yes, to the best of my limited accounting
3 knowledge.

4 Q. Okay. So is it your belief that insurance is
5 somehow related to accounting?

6 A. Well, it would be an expense that would be on
7 the financial statement.

8 Q. Okay. Do you have -- you have a home, right?
9 You have a personal home?

10 A. Yes.

11 Q. Do you have homeowner's insurance?

12 A. Yes.

13 Q. Okay. Do you have life insurance?

14 A. No.

15 Q. All right. Did you understand -- what's the
16 annual sales of Star Nissan?

17 A. As a group it's a quarter of a billion.
18 Nissan's is maybe 25 percent of that.

19 Q. Okay. Were you aware that prior to 2017, that
20 Star Nissan only had insurance coverage to protect itself
21 against employee theft in the amount of a hundred
22 thousand dollars per year?

23 A. No. That would have been Michael's area of
24 requirements, his responsibilities.

25 Q. So even though you're the owner and dealer

JOHN KOUFAKIS

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1 principal you have no role in determining whether your
2 company is properly insured?

3 MR. FELSEN: Objection. Asked and
4 answered.

5 THE WITNESS: Well, I'm an old school guy.
6 I do a lot of business on handshakes, and I
7 trusted all of my people. That's evident by the
8 length of time. I believe we had the Voynow
9 company for 21 years. Debbie -- I'm sorry,
10 Vivian may have been an employee for 30 some odd
11 years, her sister or someone close to that.

12 BY MS. FITZGERALD:

13 Q. Okay. Who was Star Nissan's insurance broker?

14 A. Oh, God. We flipped back and forth. Gundermann
15 was one of them.

16 Q. Did Gundermann ever tell you or advise you that
17 your company was underinsured?

18 A. No. Michael would take care of that.

19 Q. Were you aware that Gundermann was telling
20 Michael that your company was underinsured?

21 MR. FELSEN: Objection.

22 THE WITNESS: I didn't read the policy.

23 BY MS. FITZGERALD:

24 Q. Okay. So are you telling me that -- were you
25 aware during the period of 2010 through 2017 that your

JOHN KOUFAKIS

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1 statement from Staples, did you understand that that was
2 a credit card statement that you were paying?

3 MR. FELSEN: Objection. Asked and
4 answered.

5 THE WITNESS: I wasn't sure whether it was
6 -- I didn't think I had a credit card. I thought
7 they were invoices.

8 BY MS. FITZGERALD:

9 Q. Okay. And did you have an obligation as the
10 dealer principal and an authorized check signer to ask
11 questions about anything that you were unsure of before
12 you signed it?

13 A. Oh, I would definitely ask.

14 MR. FELSEN: Objection.

15 THE WITNESS: I would ask Vivian and
16 Carmen, and they said, Boss, everything's in
17 order.

18 BY MS. FITZGERALD:

19 Q. That's what they told you?

20 A. Uh-hum.

21 Q. And other than the statement, Boss, everything's
22 in order, you never required any documentation showing
23 what it was you were signing off on?

24 MR. FELSEN: Objection.

25 Mischaracterization of the testimony. You can

JOHN KOUFAKIS

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1 learned that there was an actual physical Staples credit
2 card?

3 MR. FELSEN: Objection. Asked and
4 answered.

5 THE WITNESS: Yes.

6 BY MS. FITZGERALD:

7 Q. Okay. And how did you learn that?

8 A. At the same time Michael told me she was
9 charging gift cards through Staples.

10 Q. Okay. And have you come to learn who had
11 physical possession of the credit card?

12 A. I've never seen it. I would have no idea who
13 has it.

14 Q. Okay. Does the credit card exist now?

15 A. I have no idea.

16 Q. Did you cancel the credit card with Staples?

17 A. How would I cancel a credit card that I didn't
18 know exists?

19 Q. Well, once you learned it exists, did you cancel
20 it?

21 A. You'd have to ask Michael.

22 Q. Now, the allegation concerning this Staples
23 credit card scheme is that Ms. Jones allegedly made
24 purchases over a 17-year period for personal use.

25 You're aware of that?

JOHN KOUFAKIS

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1 A. Yes.

2 Q. Did you have any role in investigating or
3 determining what purchases may or not have been
4 legitimate versus what was personal?

5 A. No.

6 MR. FELSEN: Objection. Asked and
7 answered.

8 BY MS. FITZGERALD:

9 Q. Okay. Did anybody ever ask you about any
10 specific purchases, whether they were, in fact,
11 legitimate or not?

12 A. No.

13 Q. But you will agree that there were legitimate
14 purchases made by Star Nissan using the Staples account?

15 A. After I was told by Michael.

16 Q. Okay. Did you ever review the Complaint that's
17 been filed against Carmen Jones?

18 A. No.

19 Q. So your company is suing. Did you authorize
20 your company to file suit against her?

21 A. I almost always agree with my brother's
22 judgment.

23 Q. Okay. But you are the owner and the only person
24 who can authorize your company to file a lawsuit,
25 correct?

JOHN KOUFAKIS

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1 THE WITNESS: I wouldn't know. No, I
2 wouldn't know. I didn't know Staples had their
3 own credit card.

4 - - -

5 (Exhibit J-Koufakis-4 was
6 marked for identification.)

7 - - -

8 BY MS. FITZGERALD:

9 Q. I'm showing you a series of checks that we've
10 marked as Exhibit-4, and these checks are all issued by
11 Star Nissan, correct?

12 A. Yes.

13 Q. And am I correct that the authorized check
14 signers on behalf of Star Nissan included yourself, your
15 father, your brother Michael, and your brother Steve?

16 A. In this bunch I count three of my signatures.

17 Q. Okay. But my question was, the authorized check
18 signers for Star Nissan would have been yourself, your
19 father, your brother Michael, and your brother Steve?

20 A. Correct.

21 Q. Okay. And you've just gone through this
22 exhibit, and do you agree that all of these checks are
23 signed by authorized check signers?

24 A. Yes.

25 Q. Okay. And do you agree that as authorized check

JOHN KOUFAKIS

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1 signers of the company you and the other three had a
2 responsibility to make sure that the charges were
3 legitimate expenses of the company before you authorized
4 payment by the company?

5 A. Well, when I see what happened here, the
6 majority was signed by John, Sr., a 90-year-old man who
7 was taken advantage of.

8 MR. FELSEN: John, just listen to the
9 question and answer the question that's being
10 asked.

11 MS. FITZGERALD: Can you read the question
12 back?

13 - - -

14 (The court reporter reads back
15 the previous question.)

16 - - -

17 MS. FITZGERALD: Let me restate the
18 question.

19 BY MS. FITZGERALD:

20 Q. Do you agree that you and the other three
21 authorized check signers had the responsibility to make
22 sure that the expenses that were presented to you were
23 legitimate expenses of the company?

24 A. Yes.

25 Q. And you had the duty to ask questions if you

JOHN KOUFAKIS

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1 were unsure of any check presented to you before signing
2 it?

3 A. Well, like I said, I didn't see but four of
4 these checks.

5 MS. FITZGERALD: Read that question back,
6 please.

7 - - -

8 (The court reporter reads back
9 the previous question.)

10 - - -

11 THE WITNESS: Yes.

12 BY MS. FITZGERALD:

13 Q. Prior to mid 2017, did you have any reason to be
14 concerned about your father's ability to fulfill his
15 responsibilities as an authorized check signer for Star
16 Nissan?

17 A. He had, in my opinion, more than an average
18 mental acuity for a 90-year-old.

19 Q. So then the answer would be you had no concerns
20 about him exercising his check signing authority?

21 A. Yes. If Carmen presented him with a check or
22 Vivian presented him with a check, it was based on trust,
23 and he would sign it.

24 Q. But he also, as you just testified, had the
25 responsibility to review the check to make sure it was a

JOHN KOUFAKIS

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1 presently and back then Star Nissan.

2 Q. Well, why -- I mean, you're the dealer principal
3 and you're the owner. Why would you not be more involved
4 in signing checks for your own company?

5 A. Well, I just finished saying that I would sign
6 most of them.

7 Q. Okay.

8 A. Now, very often Carmen, when I'm right in the
9 next building, would say we can't find your sons, John,
10 Sr., we can't find them. And I would be right nextdoor.
11 "Would you please sign this for me?"

12 Q. And there was no prohibition on them doing that
13 because he was an authorized check signer, correct?

14 A. He could sign checks.

15 Q. All right. And there was no requirement that
16 Star Nissan put in place that there would be two
17 signatures required for any check?

18 A. No two signatures.

19 Q. And there's no allegation or contention that any
20 of the checks that were signed were forged signatures,
21 correct?

22 A. I'm not a signature expert, but I can tell you
23 these are John, Sr.'s, and they all look good.

24 Q. So looking at the first one, is that Michael?

25 A. Yes.

JOHN KOUFAKIS

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(Exhibit J-Koufakis-6 was
marked for identification.)

- - -

BY MS. FITZGERALD:

Q. Okay. I'm showing you what we've marked as
Exhibit-6, and this is a copy of the 2016 tax return.

Do you see that?

A. Personal.

Q. No. It's the corporate tax return for Star
Nissan.

A. Oh, yeah, I can tell by the figure. Yes.

Q. Okay. So, and if you look at the first page of
the exhibit, there's a cover letter, and it says, "Dear
Client, enclosed are the returns."

And I am correct that Voynow prepared both
the state and federal returns for Star Nissan?

A. Yes.

Q. Okay. And if you look at the first page, sir.
So if you look at the second paragraph of this letter it
says, "these returns were prepared from information
provided by you or your representative. The preparation
of tax returns does not include the independent
verification of information used."

Do you see that?

JOHN KOUFAKIS

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1 A. Yes.

2 Q. So does this refresh your recollection or
3 indicate to you that when you signed these returns on
4 behalf of Star Nissan you did so knowing that Voynow was
5 not obligated or undertaking to verify the information on
6 the returns?

7 MR. FELSEN: Objection.

8 THE WITNESS: If the accountants put --
9 delivered this to me and said sign here, I would
10 sign there.

11 BY MS. FITZGERALD:

12 Q. Did you understand as the person signing the tax
13 return that you had certain obligations as far as making
14 sure that the information was true and correct and
15 accurate?

16 MR. FELSEN: Objection.

17 THE WITNESS: No.

18 BY MS. FITZGERALD:

19 Q. No? Did you review the tax returns before you
20 filed them?

21 MR. FELSEN: Objection.

22 Mischaracterization of testimony and of the
23 document.

24 BY MS. FITZGERALD:

25 Q. So the question was did you review the tax

JOHN KOUFAKIS

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1 speculation.

2 THE WITNESS: I don't want to assume, so

3 --

4 BY MS. FITZGERALD:

5 Q. You said that you don't recall ever receiving
6 any documents from Voynow in terms of services they
7 provided to you in a personal capacity; is that correct?

8 A. I don't recall. There may have been.

9 Q. Okay. Did they ever provide you with an
10 engagement letter for preparation of your personal tax
11 return?

12 MR. FELSEN: Objection.

13 THE WITNESS: I don't remember signing any
14 such.

15 BY MS. FITZGERALD:

16 Q. Did they ever provide you with an engagement
17 letter whether you signed it or not?

18 A. I'm uncertain.

19 Q. Okay. Do you know, have you ever heard the term
20 "compilation"? Do you know what that is?

21 A. Could you spell it?

22 Q. C-O-M-P-I-L-A-T-I-O-N.

23 A. I don't know the meaning of that.

24 Q. Have you ever heard the term "review" in the
25 context of an accounting service?

JOHN KOUFAKIS

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1 prepare Star Nissan's 2008 tax return?

2 A. Well, I'm not one hundred percent sure.

3 Q. Okay.

4 A. They were with us for a long period of time.

5 But if I guess, that's incorrect to do.

6 Q. So you said that when you would get something
7 like Exhibit-8 you would forward it on to Michael.

8 A. Absolutely.

9 Q. Okay. Do you recall a point in time where you
10 told Voynow or gave Voynow the instruction as far as
11 accounting matters, deal with Michael?

12 A. Yes. He's a lot more qualified than I am.

13 Q. And you would have passed that directive --

14 A. In accounting matters and legal matters and in
15 computers. I'm an old school guy who sells cars.

16 Q. All right. And you would have passed on that
17 directive then to Voynow, deal with Michael?

18 A. Yes.

19 Q. All right. Do you know what, if anything,
20 Michael would do with any documents or correspondence you
21 forwarded on to him?

22 A. He has tendencies to save everything.

23 Q. Okay. Would you ever give any correspondence or
24 documents or communications that you received from Voynow
25 to Vivian or anybody in the accounting department?

JOHN KOUFAKIS

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1 to follow up with her to make sure that outstanding loans
2 were, in fact, repaid?

3 A. The payment schedule was usually 50 or \$100.
4 No, I wouldn't check up on that.

5 Q. Would she be the person who set up the payment
6 schedules?

7 A. Yes.

8 Q. And were the loans --

9 A. But I would ask them how much do you want me to
10 take out of your pay, \$50?

11 Q. So is it your understanding that employee loans
12 were repaid through payroll deductions?

13 A. Yes.

14 Q. And was that the case for Star Nissan and for
15 all the other dealerships?

16 A. It was for Star Nissan. I'm not quite sure how
17 Michael and Steve handled that.

18 Q. Okay. I'm going to show you a document. It's
19 been previously marked at the other depositions, at both
20 your brother Michael's deposition as Exhibit-8 and your
21 brother Steven's deposition as Exhibit-3.

22 MS. FITZGERALD: I'm not going to mark
23 them. I'm just going to show him.

24 THE WITNESS: Okay.

25 BY MS. FITZGERALD:

JOHN KOUFAKIS

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1 Q. So are you aware -- you can actually put that
2 down for a second -- but are you aware that there's --
3 one of the alleged schemes involved checks being signed
4 to pay Vivian's personal creditors?

5 A. Around the time she was -- yes, around the time
6 she was fired.

7 Q. Okay. And these checks were signed on the
8 investor's back account and maintained by Star Nissan.

9 Are you aware of that?

10 A. All of them? I don't know.

11 Q. Okay. If you want to turn the pages in that
12 exhibit and let me know --

13 A. Okay. They say Star Nissan. Yes, Star Nissan.

14 Q. Okay. Do you know if you signed any of the
15 checks involving payment to Vivian's personal creditors?

16 A. I'll let you know in a minute. I do not see my
17 signature on any.

18 Q. But the signatures that you did see, those were
19 all signatures of authorized check signers?

20 A. Yes.

21 Q. Okay. And the payees on the check are
22 legitimate payees, correct?

23 A. I would call them illegitimate.

24 Q. Okay. So let me ask you this.

25 So you're looking at a check payable to

JOHN KOUFAKIS

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1 A. No.

2 Q. Did Vivian ever work for you or a dealership
3 known as Island Chrysler?

4 A. Yes.

5 Q. Okay. Did you ever tell anybody that Vivian had
6 stolen from Island Chrysler in the past?

7 A. No.

8 Q. Did you ever sign blank checks?

9 A. Only to the Department of Motor Vehicle. The
10 amount would be blank, but it would say New York State
11 Department of Motor Vehicle because every car's annual
12 registration is different.

13 Q. Are you aware of whether any of the other
14 authorized check signers had signed blank checks other
15 than DMV checks?

16 A. Other than DMV checks, no.

17 Q. Did you ever sign checks without backup
18 documentation?

19 A. Yes.

20 Q. Okay. Other than DMV checks?

21 A. If advised to do so, yes.

22 Q. Okay. And were you aware of whether your
23 brothers and father ever signed checks without backup
24 documentation?

25 A. I am now.

JOHN KOUFAKIS

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1 Q. And who set that budget? Did you?

2 A. Uh-hum.

3 Q. Yes?

4 A. Yes.

5 Q. Okay. And you conveyed that budget verbally to
6 Gus?

7 A. Yes.

8 Q. And was it up to Gus to decide how that money
9 was going to be spent?

10 A. Yes.

11 Q. Okay. Was Gus authorized to enter into any
12 contract for services with an outside advertiser on
13 behalf of Star Nissan?

14 A. I do not enter into any written contracts with
15 anyone. If you don't trust me, let's not do business.
16 Those are my answers.

17 Q. Is that view held by your brothers and your
18 father as well?

19 MR. FELSEN: Objection.

20 THE WITNESS: I should hope so, but I
21 couldn't guarantee it. My answer is probably.

22 BY MS. FITZGERALD:

23 Q. All right. So when Gus -- did Star Nissan use
24 an outside person for advertising?

25 A. There was -- well, in most years there was an

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1 you get to us, anything like that?

2 A. They would have a flier in their hand, the
3 letter.

4 Q. Okay. And was there anything that was recorded
5 or like any report or anything that you could look at as
6 the owner of the dealership to say, you know, this
7 advertiser is working, this method is working, you know,
8 versus what's not?

9 A. No.

10 Q. Well, how did you know what to do in terms of
11 your advertising strategy?

12 A. Gus made that decision.

13 Q. Okay. And did he ever discuss it with you?

14 A. I trusted him. He knows what he's doing, and he
15 wouldn't spend the money unnecessarily.

16 Q. Okay. And you said that when Doug Filardo was
17 -- I think you said at one point he was working for Star
18 Nissan, and then he shifted to Star Subaru.

19 A. Yeah.

20 Q. So was he an actual employee of Star Nissan and
21 then became an employee of Star Subaru?

22 A. Yeah.

23 Q. Okay. When did that change take place, do you
24 know?

25 A. I can't remember.

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1 Q. Okay. Was it a lateral move for him or was it a
2 promotion?

3 MR. FELSEN: Objection. Asked and
4 answered. You can answer.

5 THE WITNESS: He went from salesperson and
6 was given the opportunity by Gus to be sales
7 manager.

8 BY MS. FITZGERALD:

9 Q. For Nissan or Subaru?

10 A. Subaru. He recommended him to Michael.

11 Q. And Michael approved the transfer.

12 A. Yeah.

13 Q. All right. Do you have any like approximate
14 year when that occurred?

15 A. I don't want to guess.

16 Q. Okay. When he was a Star Nissan employee, did
17 he ever -- you had referenced earlier that you said that
18 -- well, actually, you said that he did not provide any
19 advertising services; that was all done through Gus,
20 right?

21 A. Yes.

22 Q. Okay.

23 A. Now, Doug kept asking me to do advertising.

24 Q. When you say he kept asking you to do
25 advertising, does that mean --

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1 A. It doesn't cost a salesperson anything. He
2 would love it -- a salesperson would love it if I spent a
3 hundred thousand in advertising. It would affect the
4 bottom line tremendously but put money in their pocket.

5 Q. Okay. Did he ever ask you while he was employed
6 by Nissan about using a different third party to do the
7 advertising?

8 A. Not that I recall.

9 Q. Okay. Did you have any involvement or input as
10 far as what Star Subaru did for purposes of outside
11 advertisers?

12 A. That would be Michael.

13 Q. So Michael would be responsible for deciding
14 what third party Star Subaru used for advertising
15 services?

16 A. Yes.

17 Q. And Michael would be responsible for
18 investigating or looking into the background and
19 qualifications of any third party Star Subaru decided to
20 go with?

21 A. Yes.

22 Q. Okay. Did you know that at some point Star
23 Subaru began using a company called Motor Sports
24 Advertising?

25 A. No. I hadn't heard of them.

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1 Q. Okay. When Filardo was promoted to the sales
2 manager position at Subaru, did he then become in charge
3 of handling outside advertising?

4 A. You'd have to ask Michael.

5 Q. Okay. Who did Filardo replace at Subaru, Star
6 Subaru?

7 A. Can't recall.

8 Q. Do you know who he reported to in his role at
9 Star Subaru?

10 A. Michael.

11 Q. Now, you said that at some point -- your
12 testimony was after signing two checks from Filardo you
13 asked him to discontinue. That's what you said before --

14 A. Discontinue asking me to do print.

15 Q. I'm sorry, explain your answer. I don't
16 understand.

17 A. He was trying to convince me to advertise more
18 so that more people would come into the showroom and
19 spend a lot -- well, to spend more money advertising.
20 All the salespeople want maximum in advertising, and they
21 have no regard for its cost.

22 Q. So your testimony, though, was -- and I wrote it
23 down -- after signing two checks you asked him to
24 discontinue.

25 So what checks were you signing?

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1 A. I'd have to look them up.

2 Q. Okay. Were you signing checks that were payable
3 to Motor Sports?

4 A. Motor Sports -- I hadn't -- I don't know who
5 they were.

6 Q. Okay. Did you ever look into or investigate who
7 they were before signing checks?

8 A. No.

9 Q. You said that you asked Mr. Filardo to
10 discontinue. Did that mean --

11 A. Discontinue asking me.

12 Q. Okay. And was that while he was an employee of
13 Star Nissan or Star Subaru?

14 A. Nissan.

15 Q. Okay. And when you had the discussion with him
16 about signing checks, was that while he was an employee
17 of Star Subaru?

18 A. I'm not sure.

19 Q. Okay. You said that Nissan's advertising budget
20 was roughly 40,000 a month.

21 A. Yes.

22 Q. Okay. Is there like a rule of thumb, you know,
23 based on whatever your annual sales are, that this is
24 what you spend on advertising? Where does that come
25 from?

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1 Q. Okay. Well, if you look at the check it's made
2 payable to Motor Sports Advertising in Sarasota, Florida.

3 A. These look like mistakes to me.

4 Q. What do you mean?

5 A. Errors.

6 Q. And what's the error?

7 A. I don't know who Motor Sports is.

8 Q. But this is your signature, correct?

9 A. Yes.

10 Q. Okay. So did you ask anybody about Motor Sports
11 before you signed these checks?

12 A. I may have signed them in haste.

13 Q. So you don't recall asking anybody about who
14 Motor Sports Advertising was?

15 A. I don't know.

16 Q. But you don't recall asking?

17 A. No.

18 Q. You know, looking at all of the checks that are
19 listed in Exhibit-16, do you agree that these are signed
20 by authorized check signers?

21 A. By my father. I see one by Michael.

22 Q. And both your father and Michael were authorized
23 check signers.

24 A. Yes.

25 Q. And do you know how these transactions were